A

Fong Khiong Cheow v Fong Wan Realty Sdn Bhd

B HIGH COURT (SHAH ALAM) — SUIT NO 22NCVC-286–06 OF 2014
SEE MEE CHUN J
29 JULY 2015

C *Civil Procedure — Pleadings — Parties bound by — Reason given by plaintiff during trial for non-registration of property in his name differing from pleaded reason — Whether unpleaded reason accepted*

D *Land Law — Trusts — Constructive trust — Whether apartment held by defendant in trust for plaintiff — Whether apartment meant as a gift from plaintiff's parents — Evidence showing that apartment could not have been intended as gift — Whether constructive trust established*

E *Landlord and Tenant — Rent — Non-payment — Double rental — Landlord's entitlement to double rent for holding over — Commencement of double rental period*

F The defendant was a wholly owned subsidiary of Fong Wan Holdings S/B ('holding company'). On 11 July 1995 the defendant had purchased an apartment known as Unit 13–01 ('the apartment') which was then registered in the defendant's name. The plaintiff and his family had occupied the apartment since its purchase and no rental was paid. The shareholders of the holding company were brothers and the sons of Dato Fong Wan and Datin Low Ko Chan. The defendant was an investment company in real estate with its source of income from rental. Another apartment unit ('Unit 13–04') was purchased by defendant in 1995. The holding company was wound up on 20 October 2014. On 9 May 2014 the defendant had resolved to sell the apartment. On 16 May 2014 the plaintiff received a letter from defendant's lawyer giving him 14 days to vacate the apartment. The plaintiff thus claimed for a declaration that the defendant held the apartment in constructive trust for him. The defendant on the other hand claimed for outstanding rental of the apartment. The primary issue arising was whether the defendant held the apartment in trust for plaintiff which in turn hinged on whether the apartment was a gift to plaintiff from his parents. The plaintiff claimed that the apartment was purchased by defendant upon the instructions of his parents as a gift to him and that this was agreed by his brothers. However, the plaintiff admitted in cross-examination that there was no agreement between his parents and his brothers to purchase the apartment for him. The plaintiff also contended that

his parents had decided to gift each son a house purchased with funds from the family business. The plaintiff further contended that the holding company was a quasi partnership consisting of members of Fong family and that this made it probable that the apartment was intended as a gift to plaintiff.

Held, dismissing the plaintiff's claim and allowing the defendant's counterclaim with costs:

(1) PW1's evidence was contradictory as he had first said it had been agreed by everyone the apartment was a gift to plaintiff and then there was no such agreement. Further if the apartment and Unit 13–04 were purchased at the same time for investment this must then necessarily mean it could not have been intended as a gift to plaintiff (see para 6).

(2) If the apartment was intended as a gift to plaintiff he would have stayed there from the start. However, the plaintiff stayed in Unit 13–04 first before moving to the apartment. DW1 had given a cogent reason that as there was a tenant for Unit 13–04, the plaintiff was asked to move to the apartment. This showed that the apartment was not intended as a gift to plaintiff (see para 8).

(3) The plaintiff had pleaded that he had not requested for the apartment to be transferred in his name as when it was first purchased in 1995 he was spending a lot of time in China on the family business and the relations between all family members was good. It subsequently came out in cross-examination he was made a bankrupt in 1993 and discharged in 2013. He then claimed that this was the reason why the apartment could not be registered in his name nor a trust document executed. This was a departure from the pleadings. It was therefore probable that the apartment was not registered in the plaintiff's name as it was not intended as a gift (see para 9).

(4) The strata title for the apartment was transferred to defendant on 7 March 2011. There was no reason why it could not have been transferred to plaintiff at that point in time. It would have been easier to transfer the apartment when his parents were around. The question arose why this was not done. Further, the fact that the strata title was never being in the plaintiff's possession went to show there was never any trust (see paras 12–13).

(5) The plaintiff admitted that the defendant had paid assessment on the apartment and Unit 13–04 as well as some invoices. This showed that the defendant had retained control over the apartment (see para 14).

(6) There was no company resolution to approve the creation of a trust over the apartment or for it to be transferred to plaintiff. This coupled with the other evidence showed there was no intention of a trust. The evidence

also did not show that the parents had gifted a house each to PW1 and DW1 through the assets of defendant (see paras 15–16).

(7) The defendant's counterclaim of outstanding rental capped at six years was allowed. Since the plaintiff had received the letter dated 16 May 2014 on 27 May 2014 giving him 14 days notice to vacate, the claim for double rental commenced 14 days from 27 May 2014. Once there is holding over of the tenancy of property the landlord is entitled to double rent calculated from the date of expiry of notice to quit to the date when possession is handed over (see para 25).

[Bahasa Malaysia summary

Defendan adalah syarikat subsidiari milik penuh Fong Wan Holdings S/B ('syarikat pemegangan'). Pada 11 Julai 1995 defendan telah membeli pangsapuri yang dikenali sebagai Unit 13–01 ('pangsapuri tersebut') yang mana kemudiannya didaftarkan dalam nama defendan. Plaintif dan keluarganya telah menghuni pangsapuri tersebut semenjak pembeliannya dan tiada wang sewaan dibayar. Pemegang saham syarikat pemegangan adalah saudara-saudara lelaki dan anak lelaki Dato Fong Wan dan Datin Low Ko Chan. Defendan adalah syarikat pelaburan hartanah dengan sumber pendapatannya daripada penyewaan. Satu lagi unit pangsapuri ('Unit 13–04') dibeli oleh defendan pada tahun 1995. Syarikat pemegangan digulung pada 20 Oktober 2014. Pada 9 Mei 2014 defendan telah memutuskan untuk menjual pangsapuri tersebut. Pada 16 Mei 2014 plaintif menerima surat daripada peguam defendan memberinya 14 hari untuk mengosongkan pangsapuri tersebut. Plaintif oleh itu menuntut untuk perisytiharan bahawa defendan memegang pangsapuri tersebut atas amanah konstruktif untuknya. Defendan sebaliknya menuntut untuk penyewaan yang belum dibayar bagi pangsapuri tersebut. Isu utama berbangkit adalah sama ada defendan memegang pangsapuri dalam amanah untuk plaintif yang mana sebaliknya bergantung atas sama ada pangsapuri adalah hadiah kepada plaintif daripada kedua ibu bapanya. Plaintif menuntut bahawa pangsapuri tersebut dibeli oleh defendan atas arahan ibubapanya sebagai hadiah kepadanya dan bahawa ini dipersetujui oleh saudara-saudara lelakinya. Walau bagaimanapun, plaintif mengaku semasa pemeriksaan balas bahawa tidak terdapat perjanjian di antara ibubapanya dan saudara-saudara lelakinya untuk membeli pangsapuri untuknya. Plaintif juga berhujah bahawa ibu bapanya telah memutuskan untuk menghadiahkan setiap anak rumah yang dibeli dengan dana daripada perniagaan keluarga. Plaintif selanjutnya berhujah bahawa syarikat pemegangan adalah *quasi partnership* yang terdiri daripada ahli-ahli keluarga Fong dan bahawa ini menjadikan ia berkemungkinan yang pangsapuri diniatkan sebagai hadiah kepada plaintif.

Diputuskan, menolak tuntutan plaintif dan membenarkan tuntutan balas defendan dengan kos:

(1) Keterangan PW1 adalah bertentangan kerana dia telah pertama kali menyatakan yang ia telah dipersetujui oleh semua orang bahawa pangsapuri adalah hadiah kepada plaintif dan kemudiannya tidak terdapat perjanjian sedemikian. Selanjutnya jika pangsapuri tersebut dan Unit 13–04 dibeli pada masa yang sama untuk pelaburan ini semesti bermaksud ia tidak mungkin diniatkan sebagai hadiah kepada plaintif (lihat perenggan 6).

(2) Jika pangsapuri diniatkan sebagai hadiah kepada plaintif, dia mungkin akan tinggal di situ dari mula. Walau bagaimanapun, plaintif mulanya tinggal di Unit 13–04 sebelum berpindah ke pangsapuri tersebut. DW1 mempunyai alasan jelas bahawa memandangkan terdapat penyewa untuk Unit 13–04, plaintif diarah untuk berpindah ke pangsapuri tersebut. Ini menunjukkan bahawa pangsapuri tersebut tidak diniatkan sebagai hadiah kepada plaintif (lihat perenggan 8).

(3) Plaintif telah memplid bhawa dia tidak pernah memohon untuk pangsapuri tersebut dipindahkan kepada namanya semasa ia pertama kalinya dibeli pada tahun 1995 bahawa dia banyak menghabiskan masa di China atas perniagaan keluarga dan hubungan di antara kesemua ahli keluarga adalah baik. Ia kemudiannya berbangkit dalam pemeriksaan balas bahawa dia dijadikan sebagai bankrap pada tahun 1993 dan dilepaskan pada tahun 2013. Dia kemudiannya mendakwa bahawa ini adalah alasan mengapa pangsapuri tersebut tidak dapat didaftarkan atas namanya ataupun dokumen amanah dapat disempurnakan. Ini adalah penyimpangan daripada pliding. Oleh itu adalah berkemungkinan bahawa pangsapuri tidak didaftarkan atas nama plaintif kerana ia bukan diniatkan sebagai hadiah (lihat perenggan 9).

(4) Hak milik strata untuk pangsapuri tersebut dipindahkan kepada defendan pada 7 Mac 2011. Tidak terdapat alasan mengapa ia tidak dapat dipindahkan kepada plaintif pada masa tersebut. Ia akan lebih mudah untuk memindahkan pangsapuri tersebut semasa ibu bapanya masih hidup. Persoalan yang berbangkit adalah mengapa ini tidak dilakukan. Selanjutnya, fakta bahawa hak milik strata tidak pernah dalam milikan plaintif menunjukkan bahawa tidak pernah terdapat apa-apa amanah (lihat perenggan 12–13).

(5) Plaintif mengaku yang defendan telah membayar penaksiran atas pangsapuri tersebut dan Unit 13–04 juga beberapa invois. Ini menunjukkan bahawa defendan telah mengekalkan kawalan ke atas pangsapuri tersebut (lihat perenggan 14).

(6) Tidak terdapat resolusi syarikat untuk meluluskan pembentukan amanah ke atas pangsapuri tersebut atau untuknya dipindahkan kepada plaintif. Ini bersama dengan keterangan lain menunjukkan tidak terdapat niat amanah. Keterangan juga tidak menunjukkan bahawa

ibubapa telah memberikan rumah kepada PW1 dan DW1 melalui aset-aset defendan (lihat perenggan 15–16).

(7) Tuntutan balas defendan terhadap penyewaan tertunggak dihadkan pada enam tahun dibenarkan. Memandangkan plaintif telah menerima surat bertarikh 16 Mei 2014 pada 27 Mei 2014 memberikannya notis 14 hari untuk mengosongkan, tuntutan untuk penyewaan berganda bermula 14 hari dari 27 Mei 2014. Apabila terdapat pemegangan ke atas penyewaan hartanah tuan tanah berhak untuk menggandakan sewa dikira dari tarikh tamat tempoh notis untuk berhenti sehingga tarikh apabila milikan diserahkan (lihat perenggan 25).]]

Notes

For cases on non-payment, see 9 *Mallal's Digest* (4th Ed, 2014 Reissue) paras 1222–1225.

For cases on parties bound by, see 2(4) *Mallal's Digest* (5th Ed, 2015) paras 7182–7189.

For cases on trusts in general, see 8(3) *Mallal's Digest* (5th Ed, 2015) paras 5820–5821.

Cases referred to

Datuk M Kayveas v See Hong Chen S/B & Sons [2014] 4 MLJ 64, FC (not folld)

Imbi World Sdn Bhd v Deluxe Tours Sdn Bhd [1997] 3 MLJ 531; [1997] 3 CLJ 504, CA (refd)

Yeoh Poh Hong v Ng Cheung On [2010] MLJU 1077; [2010] AMEJ 0490, HC (refd)

Lee Min Choon (Lee Min Choon) for the plaintiff.

Carol Tiong (Lim Yu Wen and Koh Kean Kang with her) (Tiong & Woon) for the defendant.

See Mee Chun J:

[1] This is plaintiff's claim for a declaration defendant holds Unit 13-01 Block A, Ehsan Ria Condominium, Jalan Bukit 11/2, 46200 Petaling Jaya ('the apartment') in trust for him. Defendant had filed a claim in the sessions court A52NcVc-203–06 of 2014 for outstanding rental of the apartment on the basis of its legal and beneficial ownership. By consent the sessions court case was transferred to the High Court where it was registered as 22NcVc-5–01 of 2015 to be heard with plaintiff's case and to be treated as the defence and counterclaim in this case.

PRIMARY ISSUE

[2] The primary issue is whether the defendant holds the apartment in trust for the plaintiff which in turn hinges on whether the apartment was a gift to the plaintiff from his parents Dato Fong Wan and Datin Low Ko Chan through the defendant. Witnesses for the plaintiff were Fong Keong Wah (PW1 and witness statement marked as WSP1) and the plaintiff himself (PW2 witness statement marked as WSP2). The defendant had one witness, Fong Keong Heng (DW1, director and managing director and witness statement marked as WSD1). All three are brothers.

AGREED FACTS

[3] The relevant agreed facts as per Bundle D are as follows:

(a) the defendant is a wholly owned subsidiary of Fong Wan Holdings S/B (holding company);

(b) by S&P dated 11 July 1995 the defendant purchased the apartment which was subsequently registered in its name;

(c) the plaintiff and family have occupied the apartment since its purchase and no rental has been paid;

(d) up to sometime in 2012 the shareholders of the holding company were brothers and the sons of Dato Fong Wan and Datin Low Ko Chan. They are Fong Keong Wah, Fong Keong Hong, Fong Khiong Cheow and Fong Keong Heng;

(e) with the death of Fong Keong Hong in February 2012 his two sons obtained letters of administration to his estate and the shares in the holding company were registered in their names;

(f) at a meeting of the board of directors of the holding company on 9 May 2014 it was resolved the apartment be sold by the defendant; and

(g) on 16 May 2014 the plaintiff received a letter from the defendant's lawyer giving him 14 days to vacate the apartment.

[4] Apart from the agreed facts as set out above the evidence from all the witnesses showed that the defendant is an investment company in real estate with its source of income from rental; another unit, Unit 13–04 was purchased by defendant in 1995 and holding company was wound up on 20 October 2014 (B1 pp 19–21) upon PW1 and the plaintiff's application under the just and equitable rule (B1 pp 5–8) for which the grounds were holding company is a quasi partnership consisting of members of Fong family; agreement/understanding that all brothers of Fong family were entitled to participate in the management of holding company and subsidiaries; majority

shareholders had excluded minority shareholders from participation in management of holding company and breakdown of trust and confidence between the shareholders of holding company. The matter is pending appeal and a stay pending disposal of appeal dated 11 December 2014 has been obtained (B3 pp 616–617).

[5] B 30–54 shows holding company was incorporated on 23 June 1982 with the parents and plaintiff as the shareholders and directors (B47) and the father to be the governing director. The plaintiff's evidence in cross-examination was that from 1983–2006 (B1) he had no shares in holding company and he ceased to be a director from 18 September 1987. PW1 is a director in defendant since 1983, holding company and its subsidiary companies. DW1 has been a director of the defendant since 1983 and managing director since 2006.The resolution of board of directors of holding company on 9 May 2014 the apartment and Unit 13–04 be sold by the defendant is in B11–15 and the defendant's resolution dated 28 May 2014 to give effect to it is in B5 pp 1–3.

WHETHER THE APARTMENT IS HELD IN TRUST BY THE DEFENDANT

Was the apartment a gift to the plaintiff

[6] PW1 had stated the apartment was purchased by the defendant in 1995 upon the instructions of his parents as a gift to the plaintiff and this was agreed by the four sons. In cross-examination he agreed there was no agreement between his parents and his brothers to purchase the apartment for the plaintiff and he was not re-examined on this. He also stated the apartment and Unit 13–04 were purchased at the same time for investment purposes. PW1's evidence is contradictory as he had first said it had been agreed by everyone the apartment was a gift to the plaintiff and then there was no such agreement. Further if the apartment and Unit 13–04 were purchased at the same time for investment this must then necessarily mean it could not be intended as a gift to the plaintiff.

[7] The essence of the plaintiff's evidence was holding company was a partnership consisting of his parents and the four sons and at all material time up to 2012 holding company and the subsidiaries including the defendant were managed jointly by all members of Fong family and the income for the benefit of all. The defendant was incorporated to hold the real estate belonging to Fong family; various residential and commercial properties were purchased by the Fong family but registered in the defendant's name. His parents decided that a gift of a house purchased with funds of the family business be given to each son; this intention was verbally communicated to and agreed by all the

sons and the entire family understood the apartment was a gift to him. This latter part of the evidence is contradicted by PW1 who said there was no such agreement among the sons.

[8] Further if the apartment was intended as a gift to the plaintiff he would have stayed there from the start. However the plaintiff eventually stated he stayed in Unit 13–04 first before moving to the apartment. DW1 had given a cogent reason that as there was a tenant for Unit 13–04 plaintiff was asked to move to the apartment. This together with the evidence both were purchased at the same for investment shows that the apartment was not intended as a gift to the plaintiff.

[9] The plaintiff had further stated he had not requested for the apartment to be transferred in his name as when it was first purchased in 1995 he was spending a lot of time in China on the family business and the relations between all family members was good. This is in fact pleaded in para 11. He had completely forgotten this matter and had never requested for a transfer to his name. It subsequently came out in cross-examination he was made a bankrupt in 1993 and discharged in 2013. The plaintiff's counsel then submitted this was the reason why the apartment could not be registered in his name nor a trust document executed. This is a departure from the pleadings and as far as the court is concerned it was the pleaded case there was no registration due to the plaintiff's absence from the country and the then good family relationship. On his frequent absence there was no proof to this effect and since the plaintiff was a bankrupt he could not have left the country to which the plaintiff said he had permission from Insolvency for which there was no evidence. It is therefore probable it was not registered as it was not intended as a gift.

[10] As to the good family relationship it had been shown the plaintiff had no shares in holding company from 1983–2006 and he had ceased to be a director from 18 September 1987. He disagreed he was removed as a director but that he resigned. He disagreed his shares had been taken over as his parents disliked him. He had not been named a beneficiary in his mother's will. Hence the assertion of good family relationship being a reason for non registration remains an assertion.

[11] The plaintiff had stated the apartment was very important to him and his family. Given the importance of the apartment to the plaintiff and the fact he was residing there it is not probable he had completely forgotten about it more so when as per his evidence his parents had informed him it could be transferred to him anytime upon his request. In any event the plaintiff had stated there was no resolution the apartment could be transferred to him upon request.

[12] The undisputed evidence is that strata title was issued on 10 September 2003 to Tenaga Ehsan S/B and transferred to the defendant on 7 March 2011 (B8–10). There was no reason why it could not have been transferred to the plaintiff at that point in time. The plaintiff had stated his mother had never instructed the defendant to transfer the apartment to him in 2011. He agreed it would have been easier to transfer the apartment when his parents are around. His father passed away in 2006 and his mother in 2012. The question arises why this was not done.

[13] It was also the plaintiff's evidence he had seen the title and it has never been in his possession. Refer to *Yeoh Poh Hong v Ng Cheung On* [2010] MLJU 1077; [2010] AMEJ 0490 where 'upon full settlement of the strata title of the condo a few months later this original strata title was handed over to the plaintiff which shows irresistibly that defendant intended continuously to divest himself of the said property'. The fact of strata title never being in the plaintiff's possession goes to show there was never any trust.

[14] The plaintiff had also stated he had been paying all the expenses of the apartment which an owner would normally bear for example quit rent, assessment etc and the defendant had not paid any expenses from the time of purchase. In cross-examination he stated he had not produced any proof of payment of outgoings on the apartment. He confirmed the defendant had paid assessment on the apartment and Unit 13–04 as well as some invoices. He agreed the defendant had paid as he was not the owner. This therefore shows the defendant had retained control over the apartment.

[15] There was further no company resolution to approve the creation of a trust over the apartment or for it to be transferred to the plaintiff. PW1 confirmed there was no resolution similar to B1 pp 1–3 (which is the transfer of what is subsequently referred to as house No 1 to the mother and subsequently assigned to DW1) for the apartment. This coupled with the evidence above shows there was no intention of a trust.

[16] The evidence as set above does not prove the purchase of the apartment was as a gift to the plaintiff and therefore no trust has been created.

Was there a gift of a house to each son

[17] To support the contention the apartment was a gift to the plaintiff it was sought to establish that the parents had decided a gift of a house purchased with funds of the family business be given to each son.

[18] The evidence of PW1 was that his parents had given all four sons a house each. In 1995 he was gifted the house bearing address No 2 Jalan Fong

Wan, Kluang ('house No 2') from his parents whereby the house was transferred from the defendant. He has been residing in the house since then. In cross-examination he was asked if the defendant had passed a resolution to transfer house No 2 to him and he said 'I suppose there was' and the resolution is not produced in court. As a director he can get resolutions. He agreed to the following—the resolution does not exist, had not produced land grant for house No 2 and transfer did not happen. In re-examination he stated he has been staying in house No 2 for 30–40 years and the title is in his name. He is not the controlling director in defendant. The tabling of resolutions in 1995 was initiated by his father. The evidence as presented shows there was no resolution that house No 2 was transferred from the defendant to PW1 and he was not asked to clarify his statement the transfer did not happen. There was thus no evidence house No 2 was a gift to PW1 by his parents through the defendant.

[19] It was next PW1's evidence that in 2009 his parents had also gifted a house No 1 Jalan Serai Taman Sri Tengah Kluang ('house No 1') to his youngest brother DW1. This was the defendant's property and was transferred to his mother and DW1 where there was no payment but contra from what was owed by the defendant to his mother and subsequently his mother's share was transferred to DW1. He has personal knowledge as he was director in defendant and had approved and signed the directors' resolution dated 10 July 2009 (B1 pp 1–3). In cross-examination he agreed house No 1 was purchased by his mother before the transfer to DW1. The evidence shows it was the mother who gifted house No 1 to DW1 where the money for the purchase from the defendant was by way of contra and not from the defendant. The transfer from the defendant to the mother and its subsequent assignment to DW1 was sanctioned by resolution.

[20] Thus the evidence does not show the parents had gifted a house each to PW1 and DW1 through the assets of the defendant and cannot thus support the plaintiff's contention that in the same manner the apartment was a gift to the plaintiff.

Holding company wound up

[21] It was submitted extensively by the plaintiff counsel the fact of holding company being wound up on 20 October 2014 upon PW1 and the plaintiff's application under the just and equitable rule meant the grounds advanced mainly holding company is a quasi partnership consisting of members of Fong family and that all brothers of Fong family were entitled to participate in the management of holding company and subsidiaries made itprobable the apartment was intended as a gift to plaintiff. This was because assets in the defendant were in reality the assets to be utilised for the benefit of the Fong

family with the father being the patriarch and governing director making the decision to gift a house each to all sons from the assets of the defendant.

[22] The plaintiff therefore states the apartment is held under a trust specifically a constructive trust and *Datuk M Kayveas v See Hong Chen S/B & Sons* [2014] 4 MLJ 64 at p 80:

> ... it may be construed that a constructive trust arises by operation of law irrespective of the intention of the parties, in circumstances where the trustee acquires property for the benefit of the beneficiary, and making it unconscionable for him to assert his own beneficial interest in the property and deny the beneficial interest of another. Being bereft of any beneficial interest and with equity fastened upon his conscience he cannot transfer any interest to himself let alone a third party. If he does then a constructive trust comes into existence ... .

[23] DW1 had refuted the plaintiff's allegation that holding company is a quasi partnership and that his parents had decided the money of the company be used to purchase a house for each son by stating in Q & A 10 that holding company and the defendant are always run as a structured company with the management and operation in accordance with memorandum of articles and association and company law; not all family members are shareholders and there are non family members in the board of directors and; in opposing the winding up petition holding company had filed extensive affidavits and produced numerous exhibits and has since filed an appeal. DW1 had confirmed in cross-examination his answers as to why holding company is not a quasi partnership had been raised in the winding petition and the court had not agreed with him.

[24] Insofar as the winding up order is concerned it is pending appeal and if the appeal is allowed holding company being a quasi partnership would fail too. Irrespective of the winding up order this court had considered the evidence in totality as outlined above and found there was no evidence of a creation of a trust in the plaintiff's favour. The principles in *Kayveas* does not apply.

COUNTERCLAIM

[25] As the defendant is the legal and beneficial owner of the apartment and does not hold it in trust for the plaintiff it follows its counterclaim in para 27 is allowed. It is not disputed the plaintiff has been staying in the apartment without rental. The evidence of DW1 that the apartment can fetch a rental of RM1,500 to RM2,500 was not challenged. Therefore the defendant's counterclaim of outstanding rental capped at six years at RM1,500 x 6 = RM108,000 is allowed. On the claim for double rental the plaintiff had confirmed he had received letter dated 16 May 2014 (B1 p 4) on 27 May 2014 giving him 14 days noticeto vacate. The claim for double rental should

therefore commence 14 days from 27-5-2014. *Imbi World S/B v Deluxe Tours S/B* [1997] 3 CLJ 504 supports the proposition once there is holding over of the tenancy of property the landlord is entitled to double rent calculated from the date of expiry of notice to quit to the date when possession is handed over.

CONCLUSION

[26] The plaintiff's claim is dismissed and the defendant's counterclaim is allowed. Costs to the defendant.

Plaintiff's claim dismissed and defendant's counterclaim allowed with costs.

Reported by Kanesh Sundrum